To: Presidency, Member States and the Commission

From: Austria, Belgium, Denmark, the Netherlands, Sweden

Subject: Political priorities for the future development of the JHA area in the field of asylum, migration, visa and borders

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On behalf of the Ministers responsible for asylum, migration and border matters of Austria, Belgium, Denmark, the Netherlands and Sweden, we have the honor to share with you some of our views on principles and priorities in the field of asylum, migration, visa and frontiers matters. We think that these should be taken into account when shaping the future development of the EU's Asylum, Migration and Frontiers policies beyond 2014 as a part of our Justice and Home Affairs framework. Germany and France were fully involved in preparing this paper.

The guidance by the multi-annual JHA Programmes of Tampere, The Hague and Stockholm proved in our view to be of great value as a long term strategic approach to the work within our policy areas. The future strategic guidelines for the legislative and operational planning within the area of freedom, security and justice beyond 2014 as defined by the European Council in June 2014 will be of paramount importance also to the policy matters under our responsibility.

We consider it of the utmost importance that the JHA Council is closely involved in the preparations process of this new JHA policy framework. In this context we welcome the opportunity the Presidency created to have a first exchange of views among ministers at the next JHA Council on 5 December 2013.

We are looking forward to contributing to a fruitful and constructive dialogue with all involved.

29 November 2013

General Remarks

The future asylum and migration policy should provide a comprehensive and coherent strategy (a 'whole of Government/EU approach') covering all relevant policy areas, including their external dimensions.

Solidarity, together with protection and prevention, are key elements in the further achievement of our shared goals. To ensure this in practice - which is based on mutual trust - Member States should take full responsibility for implementation of the asylum, borders, visas and migration *acquis*, resulting in a functional migration and asylum system and effective border controls.

The focus of future asylum and migration policy should be on full implementation, consolidation and evaluation of existing legislation and policies ("less legislation, more consolidation"). New legislative proposals should be presented only after a thorough evaluation (including systematic impact assessments and cost-benefit analysis) of the existing and proposed EU legislation. Ensure that Member States can effectively use EU funding to complement such efforts, while implementing their nationally-determined policy priorities.

A new level of practical cooperation is essential to achieve this goal, enabling the EU to retain the flexibility needed to cope with rapidly changing realities.

Asylum

The full and inclusive application of the 1951 Geneva Convention should continue to be the basis for the approach of the EU and Member States.

Member States shall ensure, as applicable, the effective transposition and coherent implementation of the EU asylum *acquis*, including the newly adopted CEAS package. The Commission is invited to pursue its role as guardian of the Treaties, also through capacity building efforts using EU funding. The objective of the CEAS should remain that similar asylum cases are treated alike and result in the same outcome, including receiving the same standard of reception, throughout the EU.

In this context, practical cooperation through EASO should be further developed in order to: better contribute to the coherent and cost effective implementation of applicable legislation: convergence of policy and practice in Member States; and increase cooperation and information exchange between national asylum services. The 'early warning system' should be used as a tool for strategic discussions and planning within the EU in order to better prepare for challenges and unforeseen events (including via contingency planning). Member States' practical experience of the current *acquis* should provide the basis for assessing the need for any further legislative proposals; where possible, improvements should be sought on the basis of the existing instruments.

Regional Development and Protection Programs (RDPP) should be further developed, as appropriate, to demonstrate solidarity with regions of transit and origin through building their protection and re-integration capacity.

The EU and Member States should continue efforts to resettle refugees on a voluntary basis. Taking into consideration the specific situation in each Member State, the Asylum and Migration Fund, should encourage and support Member States to start, maintain or increase a resettlement programme.

Visas and Borders

Openness and growth must be balanced with security and the ability to tackle illegal immigration. The EU visa policy should not only address issue of security but also contribute to enhance the attractiveness of the EU. For mobility to be expanded further, the EU's visa and borders policy must be credible and its migration and asylum systems robust enough to respond to future challenges.

The EU visa policy should continue to be primarily a tool for migration management. Visa facilitation agreements, or a more extensive use of the possibilities laid down in the Visa Code, could be considered where liberalization is not yet a realistic option. Negotiations on visa and readmission agreements should be advanced in parallel. The EU must ensure that rights and responsibilities go hand in hand, especially when it comes to cooperation regarding readmission, for all future visa liberalization and facilitation agreements. Appropriate mechanisms should be built into all agreements to ensure the ability for the Council to withdraw a mandate, or the EU to revoke an agreement.

In order to ensure that visa processing is consistent and reliable (similar visa applications result in the same outcome), priority must be given to better local cooperation. An expanded use of external service providers, combined with use of representation agreements, should be considered an alternative to common visa application centers. In addition to a country risk assessment, Member States should equally make an individual risk assessment in the processing of visa applications.

Integrated border management systems - which make use of modern technology - are important tools for future challenges. In this respect, swift progress should be made in the negotiations, followed by the implementation of the 'Smart Borders Package'. For the EU to become an even more attractive destination for low-risk travelers, the concept of an EU-ESTA could be considered.

While respecting its mandate, Frontex should play a more central role by increasing its operational capability and its joint operations, especially with regards cooperation with third countries (in particular countries of transit and origin). Frontex should be able to play a central role also in monitoring secondary movements in order to assure integrity and mutual trust within the Schengen area. In order to take forward this challenging agenda, joint Frontex-Member State operations need to be simpler to conduct and emphasis should be placed on strengthening the coordination role of Frontex.

Migratory Pressures

Cooperation with countries of origin and transit to foster legal mobility and tackle illegal immigration must be intensified, including the combating of organized immigration crime, trafficking in human beings and development policies aiming tackling the root causes of migration, as recently illustrated in the Mediterranean. This includes better use of all the tools under the GAMM, which should be developed as the overall EU strategic framework for external migration cooperation, with a focus on priority countries (including agreed country-specific strategies). A joined up policy approach foreseeing effective coordination and cooperation structures is required in negotiations with third countries (e.g. trade, development and other relevant policy areas), to ensure that partnership, including a "more for more" approach, on migration is sufficiently prioritized and built into third country and regional dialogues.

Future EU migration and asylum policy should include a renewed focus on returns, and those with no right to remain on the EU's territory must return - or be returned - in order to protect the integrity of asylum and migration management within the EU.

Increased voluntary return should be our priority, complemented when appropriate by re-integration activities. Robust forced return policies must also be implemented since they are crucial to the success of voluntary returns. As technology develops, and the EU gains a clearer picture of the internal movements, we must also stand ready to tackle the problem of the overstayer population. In order to be able to increase returns, the EU will need a strategic approach to prioritizing countries (including country-specific strategies), with enhanced political dialogues with key third countries to secure and implement the necessary returns agreements and ensure that re-documentation of individuals can be undertaken swiftly.

EU readmission agreements are an important tool in the fight against irregular migration. Possible future agreements must be focused on priority countries, and existing agreements must be fully implemented. Where negotiations have stalled, there must be a renewed emphasis on conclusion, and the Council must also be able to revoke mandates.

The freedom of movement for EU citizens and their family members is one of the central achievements of European Union. This principle should continue to be safeguarded, including the rights and responsibilities that it entails. Fraud and abuse of free movement by third country nationals, including through marriages of convenience and document fraud, must be effectively addressed through practical action, in order to safeguard this principle. Challenges arising in the implementation of the relevant EU *acquis* should be addressed and guidelines reviewed. Increasing the security of identity and travel documents, as well as on the issuing process, must be a focus. The EU should develop a strategy to support the Member States to implement the measures against abuse which are available under the free movement directive.